Remarks by Commissioner David B. Struhs
Massachusetts Department of Environmental Protection
to the
Electronic Products Reuse and Recycling Roundtable

Washington, D.C.
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Thank you for the invitation to speak to you about our plans to better manage the growing number of cathode ray tubes (CRTs) in the nation's waste stream.

We think it's critical that we get ahead of this environmental problem -- not because of the imagined toxic threat which currently drives federal policy, but because we'd rather not fill up our landfills - especially with items that are so readily re-used and recycled.

The size of the problem - and the size of the opportunity - are prompting Massachusetts to action.

We have several options:

1.) Do nothing; continue to ignore the fact the emperor has no clothes. Let bureaucrats in Washington continue to believe that they are playing some important role in protecting the environment, but know that in fact we will continue across the country to bury and burn CRTs just like we are today. Current efforts which "over-manage" CRTs under RCRA will continue to stymie efforts to reuse and recycle these items.

2.) Recognize we couldn't live with ourselves under option 1 and that we really must try to reclaim, recondition, re-use, export, and recycle these used products despite the fact that the current rules make it exorbitantly expensive. The result is we go broke but feel good about how noble we are. Or, everyone cheats and not much really changes.

3.) Option 3 is, of course, to change the rules. One way to do that is to focus on the rules and the rules alone, but to not revisit any of our pre-existing assumptions. In other words, assume that the TCLP test continues to have some mystical power that allows the RCRA priesthood to better divine the nature of these materials in the laboratory far better than simply looking at real world experience.

This option leads to the federal government proposing a new rule that attempts to make it easier to manage CRTs. Known as the Universal Waste Rule:

- it creates an unpredictable and changing patchwork quilt of regulatory conditions because states may or may not adopt it;
- it places CRTs in hazardous waste purgatory - technically keeping CRTs a hazardous waste (and thereby keeping in place all of the chilling liability concerns), but allowing certain exemptions if a series of prescriptive conditions are met while they are collected, consolidated and transported;
- and, not least, the Universal Waste Rule leaves about half of the abandoned TVs and computers in this country on the curb because it can't be applied to residential collections.

This option must be downright scary to those in the recycling industry who refurbish, resell and export more electronics than they process for scrap. Some have suggested that under the terms of the Basel convention, expansion of the Universal Waste Rule could have the effect of prohibiting sales of refurbished TVs and old 286 and 386 computers to poorer countries.

4.) Then there's option 4, which builds on option 3. Option 4 is to give a large collection of committees and subcommittees the task of laboring for five years on this problem to come up with something known as a Common Sense Initiative. That Common Sense Initiative - in its current formative stage - is to focus only on melting down used-CRT glass and turning it into new-CRT glass. The so-called Common Sense Initiative will continue to regulate as hazardous wastes those TVs and computers that are being repaired and upgraded for reuse or export to developing countries.

5.) Option 5 begins by looking at the world the way it really is. We identify the real problems we are trying to solve and then question the underlying assumptions that prevent the current rules and regulations from achieving the desired result. Experience shows, for instance, that not all CRTs have significant quantities of lead bound up in the glass matrix. Black and white TVs have little at all. But that same practical experience shows us that we should not expect the curbside collector to know the different lead levels of each make and model number.

Similarly we know that CRTs are surprisingly tough, and it takes more than an accidental effort to pulverize them to the point that they will fail RCRA's acid (TCLP) test.

On the other hand, in Massachusetts we have a regulatory program in place that strictly limits the creation of new landfill space - so we have a keen interest in not filling up what space is available with something that is so eminently reusable and recyclable - and that is going to grow so significantly in volume in the next few years.

Also, it's important to note, that Massachusetts incinerates a considerable amount of its solid waste - nearly half. And while its thankfully evident that the lead from CRTs does not escape as an emission to the air, the problem is that it does show up in the ash. We're more than a little bit fussy about the way we handle our ash, and high lead levels prevent us from putting that ash into any potential beneficial re-use.

So given this real world experience, what does Massachusetts propose in this fifth and final option? Two things: ban it from our landfills and incinerators, and delist it as a hazardous waste. These two simple steps will do more to get these products reused and recycled than anything else. Simply, safely and effectively.

For 7 years, Massachusetts has successfully boosted collection and processing of recyclables by prohibiting the burning or burial of a variety of items -- including lead acid batteries, motor oil, yard wastes, and large home appliances. It has paid off. Today we recycle a full *third* of all of our municipal solid waste -- one of the highest rates in the country. And we will be similarly successful in getting discarded electronics out of the waste stream. By doing that, we will continue to build up Massachusetts' burgeoning recycling industry which now generates over $600 million in economic activity every year and supports over 12,000 Massachusetts jobs.

Some have wondered if such a waste ban would create a political backlash at the municipal level with calls of "unfunded mandate!" The plan we have in place will make sure that municipal collection of CRTs for recycling will neither be mandated nor unfunded. We will be launching a new grant program - before the disposal plan is implemented - to help our towns and cities establish collection programs. And we'll be reaching out to manufacturers and retailers to help us with our efforts.

Of course none of these plans are worth the paper they're written on if we don't have the private sector recycling capacity to handle the demand. Clearly, on a going forward basis, our proposal to delist CRTs as a hazardous waste will fundamentally change the economics in a way that will unleash investment capital for expanding the recycling infrastructure. But what about the short term? Here again, the news is good.

Forty-eight electronic products recyclers already doing business in New England provide enough recycling capacity for the short term. In fact, a recent survey of electronic component recyclers doing business in Massachusetts found that a dozen of them would be willing to accept a wide range of old units -- some are even willing to accept wet and damaged units if enough intact units can be collected to make recycling cost-effective.

Moreover, progressive industry groups such as the Electronics Industry Alliance have already said that they will work to help us grow a cost effective recycling infrastructure in Massachusetts.

So which option do you like? Option 5 of course emerges as the most practical and the most likely to succeed. It is the simplest approach; it challenges outdated assumptions; it is the most cost-effective approach; it is the most comprehensive approach; it is the most enforceable approach; and it provides the best environmental protection.

Regardless of which policy formulation eventually wins out, let me suggest that we should at least all use the same six-point test to allow a fair comparison of the options:

1. Is the policy simple? Simple to implement, and simple to understand?

2. Does the policy accurately assess real risks to the environment and public health?

3. Is the policy cost effective? Does it promote the expansion of our private sector recycling industries?

4. Is the policy comprehensive? Does it get to all of the sources or only a portion?

5. Is the policy enforceable? Does it clearly describe when and where the regulations do and don't apply?

6. And most important, does it adequately protect the environment?

I drove down to Washington for this conference because I had some other business to attend and needed my car. And one of the things I noticed for the first time was the number of minivans with built-in televisions -- parents in the front seats, kids in the back watching the tube. And then it hit me just before entering the Baltimore Harbor tunnel -- the giant yellow sign that read "ALL VEHICLES CARRYING HAZARDOUS CARGO MUST EXIT HERE"

I began struggling with the obvious problem under current and proposed federal policies: What if the minivan television went on the fritz and Mom and Dad decided it just wasn't worth having repaired... that would add a whole new detour to a family drive that is already far too long!

We know we can do better than that, and we look forward to your support as Massachusetts tests some new ways of providing more environmental protection through less process.

Thank you to all of you for the invitation and for your attention.